

# FISCAL NOTE

**Bill #:** SB471

**Title:** Tax on coal for transmission and distribution system development

**Primary Sponsor:** Keith Bales

**Status:** As Introduced

Sponsor signature	Date	Chuck Swysgood, Budget Director	Date
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## Fiscal Summary

	<b><u>FY 2004 Difference</u></b>	<b><u>FY 2005 Difference</u></b>
<b>Expenditures:</b>		
State Special Revenue - Energy Projects Tax Acct	\$20,544,000	\$19,659,000
<b>Revenue:</b>		
General Fund	\$20,544,000	\$19,659,000
State Special Revenue - Energy Projects Tax Acct	\$20,544,000	\$19,659,000
<b>Net Impact on General Fund Balance:</b>	\$20,544,000	\$19,659,000

- |   |   |
|---|---|
| <input type="checkbox"/> Significant Local Gov. Impact    | <input checked="" type="checkbox"/> Technical Concerns            |
| <input type="checkbox"/> Included in the Executive Budget | <input checked="" type="checkbox"/> Significant Long-Term Impacts |
| <input type="checkbox"/> Dedicated Revenue Form Attached  | <input type="checkbox"/> Needs to be included in HB 2             |

## Fiscal Analysis

### ASSUMPTIONS:

1. This bill would create a new energy projects tax special revenue account at the beginning of fiscal 2004. Funds in the account would be pledged for repayment of revenue bonds used to finance state-owned electricity transmission or distribution systems or infrastructure projects. Any funds not pledged for bond repayment would revert to the general fund at the end of each fiscal year.
2. Beginning in fiscal 2004, this bill would impose an energy projects tax of \$0.62 per ton on coal mined in the state, with no exemptions. All collections of this tax would be deposited in the energy projects tax account.
3. Taxable coal production would be 33.136 million tons in fiscal 2004 and 31.708 million tons in fiscal 2005. Tax collections would be \$20.544 million in fiscal 2004 (\$0.62 x 33.136 million tons) and \$19.659 million in fiscal 2005 (\$0.62 x 31.708 million tons).
4. The bonds are revenue obligations and may not be considered to be a general obligation or debt of the state.
5. The debt service on \$300 million issued at 5% over a 20-year term would be approximately \$24.072 million per year. The debt service on \$300 million issued at 5% over a 40-year term would be approximately \$17.483 million per year

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6. The amount that reverts to the general fund at the end of each fiscal year would depend on when bonds would be sold and the amount of bonds sold. Planning and siting of a power line project is likely to take longer than two years. Therefore, this fiscal note assumes that the first bond sale will be after the end of fiscal 2005 so that \$20.544 million would revert to the general fund at the end of fiscal 2004 and \$19.659 would revert at the end of fiscal 2005.
7. The Department of Revenue would incur costs of less than \$10,000 each fiscal year to administer this tax.
8. The cost of administering the program (energy and infrastructure projects) would be funded with the energy projects tax.
9. The Department of Administration, A & E Division, would only be involved in the research, design, and construction of the systems and not in collection of the revenue.

<u>FISCAL IMPACT:</u>	<u>FY 2004 Difference</u>	<u>FY 2005 Difference</u>
<u>Expenditures:</u>		
Transfers	\$20,544,000	\$19,659,000
<u>Funding of Expenditures:</u>		
State Special Revenue (02) - Energy Projects Acct	\$20,544,000	\$19,659,000
<u>Revenues:</u>		
General Fund (01) – Transfers in	\$20,544,000	\$19,659,000
State Special Revenue (02) - Energy Projects Tax	\$20,544,000	\$19,659,000
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>		
General Fund (01)	\$20,544,000	\$19,659,000
State Special Revenue (02) - Energy Projects Acct	\$0	\$0

### LONG-RANGE IMPACTS:

Collections of the energy projects tax would be about \$20 million in future fiscal years but would be higher or lower if coal production increased or decreased.

### TECHNICAL NOTES:

#### **Department of Revenue**

1. It is not clear whether this tax would apply to coal owned by a tribe but located outside a reservation.
2. Section 2 provides that any funds in the energy projects tax account that are not pledged for bond repayment revert to the general fund at the end of each fiscal year. This does not allow for building up a reserve in the account before bonds are issued.

#### **Department of Natural Resources**

3. While the statute authorizes \$300 million in bonds, the maximum amount that could be marketed is estimated to be \$125 million based on the \$0.65 rate of tax and using a two times coverage test.
4. No language addresses the revenue that may be generated once the transmission lines are constructed. There is the potential for significant amounts of revenue to be generated through the sale of transmission.
5. No legislative criteria are established as to where or when transmission lines, distribution lines or infrastructure projects should be built.
6. The bill appears to authorize a broad range of infrastructure projects beyond those needed for electrical transmission. Any project determined to be an infrastructure project would be authorized.

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7. Additional language is needed to establish the revenue bond program. This would be similar to the coal severance tax bond program or the highway revenue bond act.
8. An obligation to levy the energy tax as long as bonds are outstanding is needed for the bonds to be marketable.
9. This bill authorizes state debt and should be required to receive a 2/3-majority vote for the bill to pass.

### **Department of Administration**

10. The division is assuming that the cost of administering the program would be funded with the energy projects tax. Section 2 states that the funds in the energy projects tax account may be pledged to the payment of the revenue bonds and any money not pledged to the payment of the bonds, must, at the end of each fiscal year, be transferred to the general fund. If the cost of administering the program is funded with the energy projects tax, section 2 would need to be modified accordingly.
11. Section 8 states that revenue bonds could be issued for the purpose of establishing and maintaining new state-owned electrical energy transmission or distribution systems and infrastructure projects in the state. Section 10 states that the department (D of A) shall use the bond proceeds to design and build new state-owned electrical energy transmission or distribution systems or infrastructure projects. It doesn't mention maintenance of the systems. If the bond proceeds are to include maintenance of the systems, section 10 would need to be modified accordingly.
12. Section 9 states that the bond proceeds must be deposited in an account in the state special revenue fund. It also states that for the purposes of 17-5-803 and 17-5-804, the account constitutes a capital projects account. However, the definition of a "Capital projects account" in 17-5-801(4) is a separate general obligation bond and note account created within the capital projects fund type.
13. Section 10 states that the department (D of A) shall use the bond proceeds to design and build new state-owned electrical energy transmission or distribution systems or infrastructure projects; however, it would be more appropriate to have this function done by the DNRC since it has more expertise in dealing with these type of projects.